

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. MAIN STREET TELEPHONE COMPANY, Respondent.	DOCKET NO. FCU-03-30
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
REQUESTING RESPONSE**

(Issued January 20, 2004)

On April 16, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-03-030, involving Main Street Telephone Company (Main Street), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which is a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On March 17, 2003, Ms. Kathy Smouse-Hulse filed a complaint with the Board against Main Street alleging that Main Street billed unauthorized charges on her local

telephone bill. Board staff identified the matter as C-03-30 and, pursuant to Board rules, on March 19, 2003, forwarded the complaint to Main Street for response within ten days. Also on March 19, 2003, Board staff forwarded the complaint to USBI, which was identified as the billing company for Main Street.

USBI responded to the complaint by letter dated March 26, 2003, stating that it is the billing company for Main Street, but that it is not a telecommunications company, nor does it provide any telecommunication services. USBI also stated that its records indicated that credits of \$52.54 and \$119.50, plus tax, were issued to Ms. Smouse-Hulse's account on January 15, 2003, as well as full credit for \$57.15, plus tax, which was issued to the account on March 2, 2003.

Main Street did not respond to Ms. Smouse-Hulse's complaint within the ten-day time limit.

On April 7, 2003, Board staff issued a proposed resolution describing these events and finding by default that Main Street had violated the Board's cramming rules. The proposed resolution directed Main Street to fully credit all charges and to close Ms. Smouse-Hulse's account. No party other than Consumer Advocate has challenged the staff's proposed resolution.

In its April 16, 2003, petition, Consumer Advocate asserts that a civil penalty should be imposed against Main Street to deter future cramming violations.

On April 23, 2003, Main Street filed a letter in response to Consumer Advocate's complaint stating that it wished to dispute the proposed resolution, but that it did not receive a copy of Ms. Smouse-Hulse's March 17, 2003, complaint to the Board.

The Board has reviewed the record to date and finds that there is sufficient information to warrant further investigation in this matter. The Board recognizes that there has not been any action in this matter for some time. Therefore, the Board will delay establishing a procedural schedule until February 16, 2004, and will request that Main Street file a response to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on April 16, 2003, identified as Docket No. FCU-03-30, is granted and docketed for formal proceeding.
2. Main Street Telephone Company is requested to file a response to the petition filed by Consumer Advocate on April 16, 2003, on or before February 16, 2004.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 20th day of January, 2004.